

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2297 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GSRTC THROUGH DIVISIONAL CONTROLLER

Versus

MR VANKER C/O ST KARAMCHARI MANDAL

Appearance:

MR HS MUNSHAW for Petitioner

MR HK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 20/06/96

ORAL JUDGEMENT

1. Rule. Mr.H.K.Rathod appears and waives service of rule on behalf of respondents. The award passed by the Industrial Tribunal in Reference (IT)/39/93 u/sec 10(1)(d) of I.D.Act, dated 17.10.95 is under challenge before this court at the instance of the management. It appears that initially the order of dismissal was passed against the workman, dated 27.9.88 but the appellate

authority by order dated 18.12.1988 reduced the penalty from dismissal to that of withholding of five increments with permanent effect. The tribunal found that looking to the misconduct, namely, that the watchman was found asleep during night on one day, penalty would work very harsh and therefore it has set aside the order of penalty but has only directed that he shall not be treated as on duty for the period between 20.9.88 to 8.12.88. If the loss that will be caused to the workman because of stoppage of 5 increments with permanent effect the total loss would work out to Rs.10,041/- as worked out by the petitioner. In my opinion, since the misconduct is established to hold that no penalty should be imposed would not be just and fair especially when the watchman was found to be slept during night hours while on duty. Having heard Mr.H.S.Munsha and Mr.H.K.Rathode for petitioner and respondent respectively I am of the opinion that it would be in the interest of justice to deduct Rs.5,000/- only and the penalty of stoppage of five increments be worked out at the time of retirement. Award of the tribunal is substituted to the aforesaid extent only. Balance amount is directed to be paid within 8 weeks from today. Rule is made absolute accordingly. No costs.

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